

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

In re:

Integrated Health Services, Inc., et al.,

Case No. 00-389 (MFW)

Jointly Administered

Debtors.

\_\_\_\_\_  
IHS LIQUIDATING LLC,

Plaintiff,

v.

Civil Action No. 05-376 (GMS)

ACE INDEMNITY INSURANCE COMPANY  
f/k/a INDEMNITY INSURANCE COMPANY OF  
NORTH AMERICA,

Defendant.

\_\_\_\_\_  
IHS LIQUIDATING LLC,

Civil Action No. 04-1262 (GMS)

Third Party Plaintiff,

v.

NATIONAL UNION FIRE INSURANCE COMPANY  
OF PITTSBURGH, PA, GENERAL STAR  
INDEMNITY COMPANY and ACE INDEMNITY  
INSURANCE COMPANY f/k/a INDEMNITY  
INSURANCE COMPANY OF NORTH AMERICA

Third-Party Defendants.

\_\_\_\_\_  
ACE INDEMNITY INSURANCE COMPANY  
f/k/a INDEMNITY INSURANCE COMPANY OF  
NORTH AMERICA,

Third-Party Defendant and  
Fourth-Party Plaintiff,

v.

NATIONAL UNION FIRE INSURANCE  
COMPANY OF PITTSBURGH, PA, and  
GENERAL STAR INDEMNITY COMPANY,

\_\_\_\_\_  
Fourth-Party Defendants.

*Cover page cont. on next page.*

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**APPENDIX TO CROSS-CLAIM DEFENDANT NATIONAL UNION'S  
BRIEF IN OPPOSITION TO MOTION FOR SUMMARY JUDGMENT OF  
CROSS-CLAIM PLAINTIFF INDEMNITY INSURANCE COMPANY OF  
NORTH AMERICA**

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Dated: July 10, 2007

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*Counsel for Cross-Claim Defendant  
National Union Fire Insurance Co. of  
Pittsburgh, PA*

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LOCKTON 0603

**AMERICAN INTERNATIONAL COMPANIES**

Boston Regional Office  
99 High Street  
Boston, MA 02110  
(617) 457-2700  
(617) 457-6879 (fax)

February 1, 2000

**Jennie Wu**  
**Lockton Companies**  
**7910 34<sup>th</sup> Avenue #5g**  
**Jackson Heights, NY 11372**

Re: **Integrated Health Services Inc.**  
Policy number: **357-43-84**  
Effective date: **01/01/00-01/01/02**

Dear Jennie,

Thank you for allowing us the opportunity to work with you on this account. Enclosed please find the original and two copies of the policy. It has been reviewed for errors, but if you discover an oversight, please call me so I can make the corrections right away.

We appreciate your business and would like to know how satisfied you are with our service. Please take a minute to complete the attached questionnaire and return it to us by fax.

Your business is important to us and servicing Lockton Companies is our **# 1 Priority**". Please feel free to contact me directly at (617) 457-2820.

Sincerely,



Carrie McKenna  
Service Specialist  
Boston Regional Service Center

Encl.

LOCKTON 0603

Chiacchio  
Exhibit NU 7

APR-11-2002 09:59 MATTHEW POWER RVF BOSTON 617-457-6870 P.01/12



American International Companies  
Executive  
99 High St.  
Boston MA 02110

Matthew P. Power, Regional Vice President  
617-457-2750

12 Pages

Memorandum

To: Todd Germano

From: Matthew Power

Date: April 10, 2002

Re: Integrated Health Services

EXHIBIT  
NO 7  
3-27-07  
(JL)

Todd, in anticipation of your meeting with Mike Christian tomorrow morning, I wanted to provide some additional correspondence and information for your review. Included in this voluminous fax you will find the following:

- January 17, 2002 Letter from Mike Christian to Matt Power
- April 12, 2000 memo from Jennie Wu at Lockton to Jeff Meserve
- December 28, 1998 and December 15, 1999 Quote letters from AHAC for respective policy years.
- The specific contention by the Broker is that coverage for Excess Professional Liability, as contained in the Umbrella, was on an "occurrence" basis; this appears not to be the case. OK
- In Richard Evans' letter to the Broker, dated 12/28/98, (Tab# 1 attached) it is stated in two places (highlighted) that the underlying was on a "claims-made" basis, with one full reinstatement and that there was provision in the form for "claims-made" Professional. The policy, 3574343, was issued with a follow-form claims-made Prof. Health Care endorsement and retro-date and reporting period endorsements referencing claims-made (Tab# 2 attached). ? Check
- The renewal, policy # 3574384, was quoted by Jeff Meserve on the basis of form, terms and conditions as expiring (Tab# 3 attached) and had a "Subject to" no estimated loss penetration during first year of policy. NU-U/W 02572

APR-11-2002 10:00

MATTHEW POWER RVP BOSTON

617 457 6870 P.02/12

This policy, too, contained the same endorsements as expiring and, if one was to interpret the intent to only cover professional liability claims if a claims-made policy was scheduled as underlying, one could say that no coverage existed.

- It seems clear what the intention was on behalf of underwriters if the documentation of the homogenized forms was confusing.

Note that Jeff Meserve's quote letter includes Defense outside the limit, which was not the broker's intent. Additionally, the broker contends that the underlying Reliance Policy was attached to the AHAC follow form, and that subsequent discussions with Meserve indicated that the bound coverage was follow form and that HPL was, in fact, Occurrence.

NU-U/W 02573



LOCKTON 0601

# Memo



DATE: April 3, 2002

TO: Mike Christian  
Risk Strategies

FROM: Jennie Wu  
Lockton Companies

RE: IHS

MC met  
w/ Todd  
Germans  
4/11/2002

1999 Reliance policy attached along w/copies of:

- 01/04/99 - Fax to Dick Evans outlining underlying policies for AIG's 1999 Umbrella policies
- 01/07/99 - Fax to Dick Evans with Reliance covernote and copy of expiring Zurich umbrella (copy of Zurich policy not forwarded for your purposes - let me know if you want a copy)
- 05/28/99 - Fax to Dick Evans listing all necessary revisions
- 10/22/99 - Fax to Jeff Meserve copy of 05/28/99 and copy of 1999 Reliance dec page. This was for Jeff to prepare for some meeting

*(renewal time - I worked w/Jeff on Lester)*

- 12/17/99 - Lester renewal specs to Jeff with copy of 05/28/99 fax
- 12/28/99 - Renewal quote from Jeff. Jeff's cover states will make corrections later
- 12/29/99 - Fax to Jeff confirming corrections are for both umbrella policies - not just Lester
- 12/30/99 - Fax to Jeff binding Lester renewal with corrections outlined
- 12/30/99 - Jeff signed our 12/30 fax with note ok bound with corrections

For your reference, also attached is copy of the sample policy Dick sent us 10/29/98. For the 1999 RFP, we were required to get sample policy copies to IHS. Dick's sample policy makes no mention of claims made. No additional sample material was forwarded by AIG.

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**LOCKTON COMPANIES**  
Insurance and Risk Management Specialists  
7910 34<sup>th</sup> Avenue, #5G / Jackson Heights, NY 11372  
Phone: (718) 397-8988 / Fax: (718) 397-8987

LOCKTON 0601